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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte WOLFGANG THEIMER

Appeal 2009-001170
Application 09/847,145
Technology Center 2100

Decided: October 30, 2009

Before LANCE LEONARD BARRY, HOWARD B. BLANKENSHIP, and
JEAN R. HOMERE, *Administrative Patent Judges*.

BLANKENSHIP, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

This is an appeal under 35 U.S.C. § 134(a) from the Examiner's final rejection of claims 1-22, which are all of the pending claims in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm.

Invention

Appellant's invention relates to a method for controlling a system, especially an electrical and/or electronic system comprising at least one application device. Control information is interpreted in accordance with available application devices and an application device is controlled in accordance with the result of the interpretation. Abstract.

Representative Claim

1. Method for controlling a system, especially an electrical and/or electronic system comprising a plurality of application devices, in which:

control information is received from a user independently of a permanently predetermined menu structure;

the received control information is identified;

an instruction of the control information input is interpreted in accordance with available ones of the application devices by checking whether the control information is known, unambiguous and complete for one of the application devices;

in case of ambiguity of the control information, the user is signaled to enter further control information relating to a selection of possible applications to which the ambiguous control information can be applied until the totality of inputted control information is unambiguous; and

an application device is controlled in accordance with the result of the interpretation.

Prior Art

Houser	U.S. 5,774,859	Jun. 30, 1998
Bush	U.S. 6,397,186 B1	May 28, 2002
Osawa	G.B. 2,275,800 A	Sep. 7, 1994

Examiner's Rejections

Claims 1-8 and 10-22 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Bush and Houser.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Bush, Houser, and Osawa.

Claim Groupings

In view of Appellant's arguments in the Appeal Brief, we will decide the appeal on the basis of claim 1. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUE

Has Appellant shown that "ambiguous control information" excludes a user's spoken command that can be interpreted as either of two different commands as taught by the combination of Bush and Houser?

FINDINGS OF FACT

Bush

1. Bush discloses a wireless, programmable, sound-activated and voice-operated remote control transmitter used to add hands-free speech control operation to a plurality of remotely controlled appliances manufactured by various manufacturers, each of which is normally

controlled with one or more signals from an associated remote control transmitter. Abstract.

2. The remote control transmitter has the capability of transmitting multiple control signals, such as infrared signals, to one or more appliances in response to a single voice command by the user. Such macro programs may be programmed by the user during a product setup process. For example, a user may desire that in response to the voice command "Video," the transmitter issues commands to turn on the TV power, wait for the TV to warm up until it is ready to receive control signals, set the channel to "3," select the VCR for control, turn on the VCR, and execute the VCR's play function. As another example, the user may desire that in response to the user-trained voice command "Sports," the transmitter issues commands to a TV to turn to channel 123. Col. 5, ll. 19-32.

Houser

3. Houser discloses a system for controlling a device such as a television and for controlling access to broadcast information such as video, audio, and/or text information. Abstract.

4. The processor uses the phonemic definitions and speech recognition software stored in memory to compare the spoken sounds or words with the phonemic data of the vocabulary. If the comparison results in recognition of a command, a television is appropriately controlled. If the comparison does not result in recognition of the command, one or more of several actions occurs. An indication may simply be provided to the user that the command was not recognized and the user may be prompted to repeat the command or to use the keypad to implement the command (if possible).

If a command is repeated nonsensically, for example, “GOTO CHANNEL SIXTEEN” is repeated twice in a subscription television system in which channel sixteen is not a valid channel, a subscriber terminal unit may assume that a misrecognition occurred the first time and that the user actually wants to tune to a similar-sounding channel, such as channel 60. If the top two recognition options have comparable likelihoods, the user is informed what the two options are and is asked to select one over the other. If a user has frequently spoken a specific command, for example, “GOTO CHANNEL SIXTEEN” but has apparently selected a less frequently accessed command, such as “GOTO CHANNEL SIXTY,” the more commonly spoken command may be implemented. Col. 19, ll. 27-52.

PRINCIPLES OF LAW

Claim Interpretation

The *claims* measure the invention. See *SRI Int’l v. Matsushita Elec. Corp.*, 775 F.2d 1107, 1121 (Fed. Cir. 1985) (en banc). Our reviewing court has repeatedly warned against confining the claims to specific embodiments described in the specification. *Phillips v. AWH Corp.*, 415 F.3d 1303, 1323 (Fed. Cir. 2005) (en banc).

During prosecution before the USPTO, claims are to be given their broadest reasonable interpretation, and the scope of a claim cannot be narrowed by reading disclosed limitations into the claim. See *In re Morris*, 127 F.3d 1048, 1054 (Fed. Cir. 1997); *In re Zletz*, 893 F.2d 319, 321 (Fed. Cir. 1989); *In re Prater*, 415 F.2d 1393, 1404-05 (CCPA 1969). “An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim

scope be removed, as much as possible, during the administrative process.”
In re Zletz, 893 F.2d at 322.

ANALYSIS

The Examiner finds that the device of Houser teaches the claim 1 recitation of “in the case of ambiguity of the control information, the user is signaled to enter further control information relating to a selection of possible applications to which the ambiguous control information can be applied until the totality of inputted control information is unambiguous” (Ans. 4, 12). Appellant contends that the limitation is not suggested by the combination of Bush and Houser (App. Br. 14).

According to Appellant, the device of Houser compares words spoken by a user to phonemic data. The device then identifies similar-sounding commands, informs the user about the identified commands, and asks the user to select one command over the other. Therefore, according to Appellant, the device of Houser, in dealing with an ambiguity of the control information, performs a set of steps “which differs markedly from that of the presently claimed subject matter.” *See* App. Br. 16-17.

Appellant cites several paragraphs of the Specification that use the word “ambiguous” in such a way that, allegedly, distinguishes this word from the teaching of Houser (App. Br. 15-16). Appellant submits that an input is “ambiguous” only when an input can be executed in a number of applications, is associated with a number of functions in an application, or can be associated with control instructions concerning different applications (*id.*).

However, Appellant does not point to an express definition of the word “ambiguous” in the Specification that limits its meaning to the provided examples of “ambiguous” control information.

Appellant, in the Reply Brief (at 2), contends that the term “recognition” must be distinguished from the term “ambiguous.” To support this contention, Appellant again refers to examples of “ambiguous” given in the Specification. However, none of the examples cited by Appellant provides an express definition of “ambiguous” that excludes a user’s spoken command that can be interpreted as either of two different commands. The Examiner finds that Houser discloses this type of ambiguous control information (Ans. 4, 12). Appellant has not provided a definition of the word “ambiguous,” in the claim or in the Specification, that precludes the Examiner’s finding.

We therefore conclude that Appellant has failed to persuasively rebut the Examiner’s prima face case for obviousness of the subject matter of claim 1 over the combination of Bush and Houser.

CONCLUSION OF LAW

Appellant has failed to show that “ambiguous control information” excludes a user’s spoken command that can be interpreted as either of two different commands as taught by the combination of Bush and Houser.

DECISION

The rejection of claims 1-8 and 10-22 under 35 U.S.C. § 103(a) as being unpatentable over Bush and Houser is affirmed.

The rejection of claim 9 under 35 U.S.C. § 103(a) as being unpatentable over Bush, Houser, and Osawa is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 41.50(f).

AFFIRMED

msc

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